



YUROK TRIBE

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Via Online Comment Submittal

March 8, 2013

Shelby Livingston, Chief
Climate Change Program Planning and Management Branch
Air Resources Board
(916) 324-0934
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RE: Comments on Cap-and-Trade Auction Proceeds Investment Plan Draft Concept Paper
Related to Disadvantaged Tribal Communities and Tribal Projects

Aiy-ye-kwee':

The Yurok Tribe welcomes the opportunity to provide input on the investment of cap and trade auction proceeds to support California's efforts to reduce greenhouse gas emissions through projects that benefit disadvantaged communities. The Tribe is providing these comments on the Cap-and-Trade Auction Proceeds Investment Plan Draft Concept Paper (Concept Paper) to highlight the disadvantages faced by the Yurok Reservation community and encourage use of auction proceeds to support Tribal projects, such as Tribal land acquisition, designed to reduce greenhouse gas emissions and improve community socioeconomic and environmental conditions.

The Yurok Tribe believes the Concept Paper generally represents a sound approach to the use of auction proceeds. California must be careful, however, to recognize that many tribal communities throughout the state face significant disadvantages that may not be adequately reflected in the CalEnviroScreen. Tribal land acquisition, natural resource projects, and forestry projects have great potential to benefit these communities while also reducing greenhouse gas emissions. Reductions can be accomplished through implementation of carbon offset projects on land acquisitions that also further land and natural resource conservation. State agencies should continue to work together to leverage and maximize investments in disadvantaged tribal communities and ensure that such communities are not overly burdened by duplicative federal and state regulation. These considerations are further detailed below.

Yurok Reservation Setting

Many of the economic, public health, and environmental concerns for the Yurok Reservation are not adequately reflected in the Second Public Review Draft CalEnviroScreen, on which the Concept Paper relies. In particular, the Draft CalEnviroScreen does not adequately represent tribal communities, which is noted by the Washoe Tribe in its public comments on that draft. The CalEnviroScreen does recognize, however, that it is only a broad picture of the burdens and

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vulnerabilities communities face from environmental pollutants and is not a substitute for a focused risk assessment for a particular community. The Tribe supports such a focused risk assessment by California Environmental Protection Agency (Cal/EPA), particularly when identifying disadvantaged communities for the auction proceeds investment plan.

The Yurok Tribe is the largest federally recognized tribe in California with over 5,700 Tribal members. The Yurok Reservation is located in northwestern California and encompasses nearly 57,000 acres of land lying within one mile of either side of the Klamath River from the Pacific Ocean upriver approximately 44 miles.

The Yurok Reservation and its residents comprise a severely disadvantaged community. Overall unemployment on the Reservation is approximately 50%, with certain portions exceeding 80% unemployment. Over 25% of families and nearly one third of individuals fall below the poverty line. Nearly 30% of the Reservation community faces gross rents exceeding 35% of household income. Educational attainment is also low—32% of residents do not have a high school diploma or equivalency. In addition, the upriver Reservation community is severely economically disadvantaged due to a lack of electricity, phones, and broadband communications for a majority of households.

In addition to these socioeconomic disadvantages, the Yurok Reservation community faces extensive environmental challenges. The Yurok Reservation was historically subject to extensive clear cut timber harvests. This resulted in severe sedimentation and siltation problems in the lower Klamath River watershed. Related road building and slope destabilization have caused significant erosion and limited the quality of stream buffers and riparian habitat. This sedimentation has a direct effect on fish passage, stream bed stability, and the spawning ability of salmon, the traditional food source of the Yurok people. Furthermore, potential exposure to pesticides and herbicides as a part of timber operations and illegal marijuana cultivation materially threatens the health of Tribal members and Reservation residents who depend on the lower Klamath River for food and domestic water. Pesticide pollution is of critical concern because Tribal members' fish consumption far exceeds the national average.

Auction Proceeds for Tribal Land, Natural Resource, and Forestry Projects

The Yurok Tribe supports the eligible investments identified in Figure 6 of the Concept Paper, including use of auction proceeds for transportation investments such as high-speed rail lines and other low-carbon and efficient public transportation. The Tribe also supports use of the funds for land and natural resource conservation and management and forestry, including land acquisition projects that sequester carbon and improve fish and wildlife habitat. Such land acquisitions directly advance the regulatory purposes of AB 32 to reduce greenhouse gas emissions. In addition, they further the AB 32 purposes of maximizing the economic, environmental, and public health benefits to California, fostering local job creation, improving air quality, and lessen the impacts of climate change.

For example, the Yurok Tribe has actively engaged in natural resource projects to address the challenges faced by the Reservation community and Tribal members while also reducing environmental burdens and greenhouse gas emissions. The Yurok Tribe is currently negotiating, in coordination with State agencies, phased acquisition of 55,000 acres of timberland in the Tribe's ancestral territory from a willing private timber company seller. The Tribe has purchased a 22,000 acre portion of this land known as Phase 1 with the support of the State Water Resources Control Board.

Phase 1 acquisition transferred land ownership from a non-California-based timber company to a California Tribe. To further natural resource conservation, reduce sedimentation, and improve fish habitat, the Tribe has implemented a cap-and-trade regulation-compliant carbon project on Phase 1. This carbon project will result in verified greenhouse gas emission reductions of nearly 1.25 million tCO₂e. Revenues from the Phase 1 carbon project and any timber harvests will stay local, benefitting the Reservation community and Tribal members through improved government services such as health, wellness, and social service programs. The Tribe has begun implementing various habitat restoration and road decommissioning projects on the Phase 1 acquisition, all of which will reduce sedimentation and improve fisheries habitat. Environmental burdens on the local community will be reduced by the Tribe's decision not to use herbicides or pesticides in its land management. Further, the Phase 1 acquisition project has fostered job creation and investment in the disadvantaged Reservation community through the Tribe's hiring of additional forestry technicians to help manage the land.

The second phase of the Tribe's land acquisition, known as Blue Creek, will greatly advance natural resource conservation and further reduce greenhouse gas emissions. The Tribe has already begun developing a cap-and-trade compliant carbon project within the Blue Creek watershed, but completion is contingent on land acquisition. The carbon project will help generate funds to manage the land as a salmon sanctuary and anchor forest for cultural, fish, wildlife, and natural resource values. Like the Phase 1 project, the Blue Creek acquisition will result in greater economic benefits to the Reservation community through job creation and localized revenues. It will also reduce environmental burdens from sedimentation and pollutants.

To the extent that auction proceeds are used to offset existing general fund programs that reduce carbon emissions, the Tribe believes that Tribal land acquisition projects that reduce greenhouse gas emissions, benefit disadvantaged communities, and further land and natural resource conservation would be an excellent use of Prop 84 funds. The Tribe's Blue Creek acquisition is just such a project.

Maximized State Agency Investment in the Disadvantaged Yurok Reservation Community

The Tribe applauds the Concept Paper's draft investment principles encouraging State agencies to maximize investments in and benefits to disadvantaged communities, and to coordinate with other State and federal funding programs. The Concept Paper also calls for leveraging private and government investment to the maximum extent possible, which is a sound approach to efficient and effective use of the auction proceeds.

The Yurok Tribe's acquisition of Phase 1 and Blue Creek perfectly fits these principles. As discussed above, the project would bring significant benefits to the Yurok Reservation community. It is also a model for coordinated investment opportunities and leveraging of funds. The Yurok Tribe has contributed nearly \$19 million towards the total land acquisition cost of \$59 million. It is working to leverage private sector sources through carbon revenue and philanthropic dollars. The Tribe is seeking natural resources bond money from California agencies, which would represent 1/3 the total cost of the property. This value far exceeds that of typical conservation easements, which generally appraise between 40-60% of fee value. California natural resources bond money has yet to benefit a tribal government through acquisition, though at least \$1.3 billion have been placed in conservation transactions over the past 10 years.

Support to Disadvantaged Communities

The Concept Paper draft implementation principles call on California agencies to provide support to disadvantaged communities to ensure investment requirements are met, an approach the Tribe supports. The Yurok Tribe has a high level of technical and administrative capacity—from Tribal fisheries management, to forestry, to watershed restoration—and works with California agencies in these and a variety of other contexts. For tribal land acquisition projects, California agencies should work with a tribe to facilitate or streamline regulatory processes to reduce the overall administrative costs of funding recipients. In addition, because many aspects of tribal natural resource management are overseen by the U.S. Bureau of Indian Affairs (BIA), California agencies should attempt to avoid duplicative federal/state regulation by entering into cooperative agreements with the tribe and the BIA, deferring to BIA determinations, or developing an alternative regulatory approach.

The Yurok Tribe appreciates the opportunity to provide these comments and looks forward to working with the Air Resources Board and Cal/EPA to further refine the Concept Paper and identify opportunities for California investment of auction proceeds in California tribal communities. Should you have any questions, please contact our Staff Attorney Nathan Voegeli at 707-482-1350 ext. 1408 or email nvoegeli@yuroktribe.nsn.us.

Sincerely,

A handwritten signature in blue ink, appearing to read "T. O'Rourke, Sr.", with a stylized flourish at the end.

Thomas O'Rourke, Sr.
Chairperson, Yurok Tribe